



CHAPTER 58

An Act to amend the Construction Industry Labour Relations Act

[Assented to 23 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1968, c. 45,
s. 4,
replaced.

1. Section 4 of the Construction Industry Labour Relations Act (1968, chapter 45), replaced by section 5 of chapter 28 of the statutes of 1973 and section 3 of chapter 51 of the statutes of 1975, is again replaced by the following section:

Application
for repre-
sentative-
ness.

“4. Only the Centrale des syndicats démocratiques (CSD), the Confédération des syndicats nationaux (CSN), the Conseil provincial du Québec des métiers de la construction (FTQ) and the Syndicat de la construction Côte Nord de Sept-Îles Inc. may have their representativeness ascertained by presenting their application for such purpose to the board in the eighth month preceding the expiry date of the decree.”

1968, c. 45,
s. 5,
replaced.

2. Section 5 of the said act, replaced by section 5 of chapter 28 of the statutes of 1973 and section 3 of chapter 51 of the statutes of 1975, is again replaced by the following section:

Publication
of names of
associa-
tions.

“5. The board shall, not later than the last day of the seventh month preceding the expiry date of the decree, cause to be published in the *Gazette officielle du Québec* and in a French daily newspaper, the name of each association mentioned in section 4 that has presented an application to the board.”

1968, c. 45,
s. 6,
replaced.

3. Section 6 of the said act, replaced by section 5 of chapter 28 of the statutes of 1973 and section 3 of chapter 51 of the statutes of 1975, is again replaced by the following section:

Prepara-
tion of list
of em-
ployees.

“6. The board must prepare a list of all the employees:

(a) holding a classification certificate issued under the Regulation on the placement of employees in the construction industry;

(b) having worked at least three hundred hours during the first twelve of the fifteen complete calendar months preceding the month during which the poll provided for in section 7a is held; and

(c) domiciled in Québec on the last day of the eighth month preceding the expiry date of the decree.

Provision inapplicable. Subparagraph b of the first paragraph does not apply to employees who, on the last day of the seventh month preceding the expiry of the decree, are fifty years old or over."

Presumption. Such list establishes incontestably the names of the only employees who may avail themselves of section 7a.

Cards to employees. During the seventh month preceding the expiry of the decree, the board shall send to each employee whose name appears on the list established in accordance with this section a card identifying him as an elector for the purposes of section 7a and bearing his name and social insurance number.

List to associations. Such list is sent to the associations contemplated in section 5 not later than fifteen days before the holding of the poll provided for in section 7a."

1968, c. 45, s. 7a, replaced. **4.** Section 7a of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Employee to inform of his election. **"7a.** During the sixth month preceding the expiry of the decree, every employee whose name appears on the list prepared in accordance with section 6 must, in accordance with this section, inform the board of his election respecting one of the associations indicated on the list contemplated in section 5.

Secret ballot. Such election shall be made by secret ballot held under the supervision of a representative of the board, on the dates and in the manner provided for by regulation of the board. However, the ballot must be held for a period of not less than five consecutive days.

Presumption. An employee who is entitled to make known his election, but has not expressed it in accordance with the first paragraph, is deemed, for the application of sections 7b, 7d and 7g, to have elected for the association in favour of which he made his election known at the preceding ballot or of which he has become a member in accordance with section 7h since that ballot, provided that the name of that association is published in accordance with section 5.

Representative to settle dispute. Any dispute relating to the vote or resulting from the poll shall be settled by the representative of the board. His decision is final.

1968, c. 45,
s. 7c,
replaced.

5. Section 7c of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Criteria
for repre-
senta-
tiveness.

“7c. The board ascertains the degree of representativeness of an association in accordance with the criteria set out in section 7d.

Certi-
ficate.

It issues to each association whose name has been published in accordance with section 5, a certificate establishing its degree of representativeness and the list of the employees who have become members of such association in accordance with section 7a.

Effect.

This certificate has effect from the first day of the second month preceding the expiry of the decree, except for the purposes of Chapters IV and V, for which it has effect from the first day of the fourth month preceding the expiry of the decree.”

1968, c. 45,
s. 7d,
replaced.

6. Section 7d of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Repre-
senta-
tiveness of
association
of em-
ployees.

“7d. The representativeness of an association of employees corresponds to the percentage that the number of employees who have elected in accordance with section 7a in favour of that association, is of all the employees who have voted in this matter.”

1968, c. 45,
s. 7e,
replaced.

7. Section 7e of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Card to
employee.

“7e. The board shall send to each employee whose name appears on the list contemplated in section 7b, a card indicating, in particular:

(a) his name;

(b) his social insurance number;

(c) the name of the representative association he has elected for in accordance with section 7a.

Effect.

This card has effect from the first day of the second month preceding the expiry of the decree.”

1968, c. 45,
s. 7f,
replaced.

8. Section 7f of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Card is
incontes-
table proof.

“7f. The card contemplated in section 7e is incontestable proof of its content for the whole period included between the date on which it comes into effect and the last day of the third month preceding the expiry of the decree, and is the only one that the employer is to consider for the purposes of employment of an employee, and also the only one for all purposes of the board.”

1968, c. 45, s. 7h, replaced. **9.** Section 7h of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

Card essential. **“7h.** No employer may employ an employee unless such employee has previously obtained from the board the card contemplated in section 7e, after such employee has informed the board, in accordance with the procedure established by it, of his membership in a representative association and the board has accordingly notified the association concerned.”

1968, c. 45, s. 9a, added. **10.** The said act is amended by inserting, after section 9, the following section:

Right to attend. **“9a.** Any association that is representative to the degree of fifteen per cent or more may attend the negotiating sessions and submit proposals regarding the content of the collective agreement.”

1968, c. 45, ss. 46-48n, added. **11.** The said act is amended by inserting, after section 45, the following chapter, title and sections:

“CHAPTER IX

“APPEAL IN THE MATTER OF PLACEMENT

“§ 1.—*Appeal to the Labour Court*

Definitions: “certificate”; **“46.** In this chapter,
(a) “certificate” means a classification certificate issued under the Regulation on the placement of employees in the construction industry;

“licence”. (b) “licence” means a licence issued to a placement agency under the Regulation on the placement of employees in the construction industry.

Appeal. **“47.** Any person may appeal to the Labour Court from any decision rendered by the board
(a) refusing to issue or renew his licence;
(b) cancelling or suspending his licence;
(c) refusing him or withdrawing his authorization to operate a branch.

Delay, etc. **“48.** The appeal must be brought within thirty days from the date when such decision is rendered, by way of a notice setting out

- (a) the name and domicile of the applicant;
- (b) the date and nature of the decision of the board;
- (c) the relevant facts; and
- (d) the conclusions sought.

Decision executory. The filing of the notice of appeal does not suspend the execution of the decision of the board, unless the Court orders otherwise.

Applicable provisions. “48a. So far as they are applicable, Chapters VI and VII of the Labour Code (Revised Statutes, 1964, chapter 141) apply in the case of an appeal contemplated in section 47.

§ 2.—*Appeal to the placement commissioner*

Placement commissioner. “48b. A placement commissioner is appointed by the Minister for a term not exceeding two years.

Fees, etc. “48c. The Lieutenant-Governor in Council may fix the fees, allowances or salary of the placement commissioner or, as the case may be, his additional salary.

Deputy-commissioners. “48d. The Minister also appoints deputy-commissioners. Their remuneration is fixed by the Lieutenant-Governor in Council.

Functions. “48e. The placement commissioner directs, coordinates and allots the work of the deputy-commissioners.

Powers and immunity of commissioners, etc. “48f. The placement commissioners and each of his deputies are invested with the powers and immunity granted to the commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

Appeal. “48g. Any person may bring an appeal to the placement commissioner from any decision of the board

- (a) refusing to issue or renew his certificate;
- (b) issuing a certificate that he does not consider appropriate.

Appeal. An employer may also bring an appeal to the placement commissioner from such a decision where it is in his interest that such person should hold a certificate.

Complaint. “48h. A person wishing to exercise the recourse provided for by section 48g must, beforehand, send a complaint in writing to the board.

Board may reconsider. “48i. If the board finds that the complaint has merit it may reconsider its decision.

Decision. The board must render a decision within ten days after it receives the complaint contemplated in section 48*h*.

Delay to appeal, etc. “48*j*. The appeal must be brought to the commissioner within thirty days of the decision reconsidered by the board or of the expiry of the delay provided for by section 48*i*, by way of a notice setting out

- (a) the name and domicile of the applicant;
- (b) the date and nature of the decision of the board;
- (c) the relevant facts; and
- (d) the conclusions sought.

Confirmation, etc., of decision. “48*k*. The commissioner or one of his deputies may confirm, amend or quash any decision submitted to him and render the decision that, in his opinion, should have been rendered in the first place.

No appeal. “48*l*. The decision of the commissioner or of one of his deputies is without appeal.

Recourse prohibited. “48*m*. None of the extraordinary recourses provided for in articles 834 to 850 of the Code of Civil Procedure may be exercised, nor any injunction granted against the commissioner or a deputy-commissioner, acting in his official capacity.

Writ, etc., annulled. “48*n*. Two judges of the Court of Appeal may, upon a motion, annul summarily any writ, order or injunction issued or granted contrary to section 48*m*.”

1968, c. 45, s. 55*b*, added. **12.** The said act is amended by inserting, after section 55*a*, the following:

Offence and penalty. “55*b*. Every person who hires an employee contrary to a regulation made under section 32, or keeps him in his employ, is guilty of an offence and is liable, for each day or part of a day during which the offence continues, in addition to the costs, to the fines provided for in section 56.”

Sums required. **13.** The sums required for the carrying into effect of Chapter IX of the said act are paid, for the fiscal year 1978/1979, out of the consolidated revenue fund and, for the subsequent fiscal years, out of the moneys granted every year for that purpose by the legislature.

Coming into force. **14.** This act comes into force on the day of its sanction.